

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

STANLEY CLIFF SMITH,

Petitioner,

V.

ATTORNEY GENERAL OF THE STATE :
OF NEW JERSEY, :

Respondent.

Civ. No. 20-202 (GC)

MEMORANDUM & ORDER

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (See ECF 3). In Claim 2, Petitioner argues that the prosecutor committed misconduct when he assured the jury that Co-Defendant Khalif Johnson would not receive a concurrent sentence. (See *id.* at 9). Petitioner raised this issue on direct appeal in state court. The last reasoned decision on this claim was from the New Jersey Supreme Court. See *State v. Smith*, 54 A.3d 772 (N.J. 2012). In denying this claim, the New Jersey Supreme Court referred to the record before it which included “the transcript of Johnson’s guilty plea, the plea form he executed at the time of his guilty plea, and the sentencing transcript.” See *id.* at 795. It does not appear though that these documents have been provided to this Court by Respondent. In analyzing whether the state court’s decision was based on an unreasonable determination of the facts, see 28 U.S.C. § 2254(d)(2), Respondent shall be ordered to provide this Court with copies of these documents so that Petitioner’s Claim 2 can be fully analyzed.

Accordingly, IT IS on this 13th day of September, 2023,

ORDERED that within seven (7) days of the date of this Memorandum & Order, Respondent shall file and serve the following: (1) a copy of the transcript of Khalif Johnson's guilty plea; (2) the plea form Johnson executed at the time of his guilty plea; and (3) Johnson's sentencing transcript as referenced in the New Jersey Supreme Court Opinion on direct appeal; and it is further

ORDERED that the Clerk shall serve this Memorandum and Order on Petitioner by regular U.S. mail.


GEORGETTE CASTNER
United States District Judge